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## **Interaction between OHS regulation and OHS certification in Denmark**

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### **Abstract**

In 2001, the Danish Parliament approved a law on OHS certification<sup>1</sup> that provided economic support to enterprises/organizations that were certified according to one of the two national OHS standards.<sup>2 3</sup> These certified enterprises/organizations were also exempt from the initial inspection by the Danish Working Environment Authority, which they would otherwise be required to pay for. In practice, this meant that inspection of the certified enterprises was transferred to the certification bodies unless a work accident or work-caused ailment or the like was reported. In 2005, the law was revised<sup>4</sup> so that in practice OHSAS 18001 received the same status as the Danish standards,<sup>5 6</sup> which are presently of no practical importance. A special marking arrangement was also introduced for certified enterprises/organizations and shown on the Danish Working Environment Authority's website.

In spite of the fact that OHS certification has existed as a form of substitute inspection for almost 10 years, no systematic evaluation of the effects of OHS certification on the OHS, and thereby the validity of the certificate, has been made. In several cases, however, certified enterprises/organizations have received injunctions, immediate orders, or prohibitions against continued operation after the Danish Working Environment Authority had made an inspection due, for example, to a reported work accident or a theme campaign. This demonstrates that certification does not necessarily ensure that enterprises operate according to the legal requirements.

This raises the question of whether OHS certification is a proper substitution for inspection by the authorities. On the one hand, the control frequency is greater for the certified enterprises/organizations due to the audits required for the certificate; on the other hand, the certification regime is based on a different frame of reference than the traditional regulation regime based on public inspection. These different frames of reference influence the way in which the national OHS concept is implemented, and thus the focus of inspection practice. Another significant factor is the creation of a client relationship between the certified organizations and the certification body, which establishes a form of dependency.

With point of departure in a project for the Nordic Council of Ministers,<sup>7</sup> the discussion here is based on Danish experiences and presents the project's central recommendations for optimizing the interaction between OHS certification and regulation/control.

### **1 Introduction**

In the Nordic countries, a tradition exists for a relatively restrictive detail regulation of the working environment and control by the authorities of OHS performance based on random samples. Among OHS professionals, it has been a widely accepted premise that the relatively good Nordic OHS performance generally reflects the regulating and controlling focus. Since the end of the 1980s and especially throughout the 1990s, a gradual paradigm shift toward increased self-control followed the international trend toward new liberalism and the wish for deregulation in order to strengthen

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<sup>i</sup> Kåre Hendriksen was formerly a leading assessor for the Danish accrediting agency DANAK, with responsibility for accrediting certification agencies for OHSAS 18001.

enterprises/organizations' individual and organizational responsibility. At the same time, the increasing complexity of the OHS concept has made control by the authorities more difficult and more demanding of resources. The paradigm shift has led to a greater emphasis on organizations<sup>i</sup> taking better care of their OHS, for example through management systems and through their own control. This shift is based on the idea that market mechanisms can be used to promote improvements, also within such important areas for society as environment, working environment and social responsibility.

As part of the international tendency toward increased focus on self-control, ISO issued the ISO 1400 environmental standard in 1996, which was relatively quickly followed by EU's EMAS act. Because the ISO committee could not agree on an OHS standard, the British Standard Institution in 1999 issued OHSAS 18001, which has become a relatively widespread OHS standard internationally.

The increased confidence in the individual organization's societal and humanistic responsibility won sympathy outside traditional right-wing circles and also became anchored in much of the trade union movement and social democratic parties. In the different Nordic countries during this period, changes were made in OHS legislation, all of which place greater emphasis on the individual organization's self-control through the internal control principle.<sup>8</sup> Whereas Denmark, in 2001, decided that it was voluntary to establish an OHS management system and gave special legal status to organizations that became OHS certified by an accredited certification agency, the other Nordic countries maintained control of all organizations by the relevant authority. It is characteristic that these changes have been carried out with relative consensus among the interested parties. At present, Sweden is considering introducing a practice similar to that in Denmark, under which OHS certified organizations are not subjected to control by the authorities.

## **2 The different regime frameworks and conditions**

The traditional regulation and control regime and the market-based certification regime have their origins in quite different frameworks for regulation. It is therefore necessary to analyze the differences in connection with a discussion of their effects on OHS performance.

### **2.1 Regulation based on rules and inspection**

In a democratic society, laws and their enforcement are ideally considered to promote the common good; the legal rights of the individual are weighed against society's economic and security interests. In this perspective, working environment can be compared with many other aspects of society that are subject to public regulation and control, such as the environment and traffic.

OHS legislation thus recognizes that it is necessary for society to protect the individual employee against accidents, wear and tear or abuse, because the individual organization cannot or will not necessarily protect employees' interests and only to a limited extent can meet the costs connected with accidents, wear and tear etc.

The understanding that forms the basis for OHS legislation in the Nordic countries is that ensuring a good OHS is important for the functioning of society, and also that the OHS issue is much too

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<sup>i</sup> In this article, we use the OHSAS 18001 definition of organization, which includes: company, corporation, firm, enterprise, authority or institution, or part or combination thereof, whether incorporated or not, public or private, that has its own functions and administration.

complex to be left to the individual organization itself to manage through locally formulated norms and demands. Therefore, OHS legislation is characterized by being relatively detailed. The framework legislation is approved by the parliament, and the framework is filled out by the relevant ministry or authority and implemented through a series of executive orders and guidelines etc.<sup>9</sup> Typical for among others the Nordic countries, the labor market's organizations are formally involved as hearing partners on both the parliamentary and administrative levels in connection with drafting regulations.

The OHS concept is dynamic and is constantly being developed, expanded and defined through interaction between the actors in the knowledge network,<sup>10</sup> which is for example based on:

- research-based knowledge,
- the experiences collected through inspection by the authorities,
- input of knowledge and experience from OHS professionals,
- known innovation resulting from technological development, and
- wishes and evaluations of labor market organizations.

Considerable delays occur, however, from the time this knowledge is documented on the basis of research until it is translated into adjustments of the regulations through the issuance of executive orders etc. Delays are also due to the tradition for consensus, which aims to achieve agreement between the labor market organizations before changes are politically or administratively approved. It is noteworthy that opposition to tightening the regulations can come from both the employer and employee organizations, and that such opposition most often has the same basis – fear of worsening the conditions for competition and thereby losing jobs.

Thus, several interested parties have direct or indirect influence on the development of both the OHS concept and the regulations. The regulations are usually reactive and rarely completely reflect researchers' and OHS professionals' actual OHS concept, but are rather an expression of the political compromise that can be reached at a given point in time.<sup>11</sup> Therefore, the actual balance of power between the different interested parties influences both the national definition of the OHS concept and the regulations. This means that the media and other opinion makers can also exert great influence on the definition of the OHS concept in relation to individual cases.

Viewed in an international perspective, the OHS concept has a broad scope within which the Nordic countries represent one of the more holistic, which also includes work-related ailments resulting from long exposure as well as 'soft' parameters, such as the psychosocial working environment, sick leave, and maintaining sick and worn out employees' connection with the workplace etc. Even within EU, several countries have a much more traditional OHS concept, narrowly focused on technical protection against accidents etc. The national understanding of the OHS concept is reflected in countries' legislation, which is also based on differing conceptions of objective OHS problems. Several Southern European countries, for example, still do not recognize that exposure to organic solvents can cause injury to the brain and the central nervous system. The great national differences OHS legislation reflect the interaction between the national regulation tradition and the balance of power between the many interested parties that influence the definition of the OHS concept.

The regulation and control regime can contribute to ensuring a national minimum standard for OHS performance, if the necessary resources are provided for inspection. In this respect, there are also great national differences as well as in respect to inspection practice, including how the controlling authority interprets and implements the regulations.

In the Nordic countries, the regulations are interpreted relatively restrictively, and they are used to form the basis for authority control; here, corruption and the like are largely an unknown phenomenon. However, resources for the controlling authorities constitute a parameter that is part of the political-economic competition in connection with the annual budget. There is a tendency to reduce these resources under right-wing governments, whereas they increase under social democratic governments. Inspection frequency and thus some of the effect therefore reflects to a certain extent the actual political balance of power, just as the development and revision of the politically approved legislation is also influenced by the balance of power; however, the aim is to a greater extent to achieve consensus in connection with filling out the framework legislation through issuing executive orders etc.

As the OHS concept is gradually expanded, the regulation and control regime is confronted with a double challenge. Expansion of the OHS concept to also include long exposures means that it comes to cover conditions with individual dosages, which means that it becomes more difficult to set objective and unambiguous exposure levels. Inclusion of the psychosocial working environment covers conditions in which an individual dosage response has no meaning. In such cases OHS effort must focus on how work is organized and human relations are maintained in the organization which does relate to how management is performing its rights to organize and lead work activities. It therefore becomes increasingly more difficult to develop an unambiguous set of regulations that ensure a good working environment within the politically accepted OHS concept. It also becomes more complicated to control whether organizations comply with the current regulations. This development also leads to an increasing need for inspection resources.

## **2.2      *The certification regime***

The basis of the certification regime is that organizations implement and maintain a certifiable management system, which through internal control ensures a defined level of performance. Both the OHSAS 18001<sup>12</sup> and ISO 14001 standards are based on the quality standard, ISO 9001, the main principle of which is that the producer defines its quality specifications and a certification body, using random samples, verifies that the system ensures that the quality specifications are fulfilled. This makes it possible for consumers, when choosing a product on the open market, to focus on price and other parameters, while certification ensures that quality specifications are fulfilled by making them transparent.

OHSAS 18001 and ISO 14001 differ from the ISO 9001 standard on two points. The first is the demand for continual improvements; the second is that the organization is obligated to comply with relevant legal requirements in relation to the working environment and the environment. In the OHSAS 18001 standard, it is the organization's management that defines the level and scope of the continual improvements.<sup>i</sup> The standard's other requirements relate to the planning and structure of the organization's OHS management system.

The OHSAS 18001 standard's requirement specifications are defined by an exclusive group of interested parties, which primarily includes certifying and accrediting agencies, the industry's interest organizations, and to a less extent OHS professionals, whereas employee organizations and OHS research are for the most part not represented.<sup>ii</sup> The group is self-appointed and members pay for their participation. The fee depends, among other things, on whether the member wishes to have orientation or hearing rights. It is thus characteristic that the standard's requirements are defined by interested parties whose primary interest is not in the requirements for the working environment but in management, systems and certification, and that these elements for most interested parties are

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<sup>i</sup> OHSAS 18001:2007, 4.2 OH&S policy

<sup>ii</sup> OHSAS 18001:2007, Acknowledgement

also related to their business conditions. The interested parties that typically participate in defining the content and scope of the OHS concept, and in some countries participate in developing the regulations, for the most part do not participate in the standardization work. They remain invisible in the standardization work and function through the standards' references to OHD and safety, in the expectation that their knowledge can be used when the standards are implemented. The networks of interested parties that are necessary to maintain and develop this knowledge remain hidden in the standard<sup>13</sup> – hidden behind vaguely defined concepts.

The OHS concept reflected by the standard is traditional with focus on elementary technical accident prevention. The standard assumes that an objective evaluation can be made of the OHS parameters through measurement or verification.<sup>i</sup> Therefore, the standard does not ensure the certification bodies the necessary instruments to audit many of the OHS parameters that are gradually included, for example in the Nordic countries' regulations.

The only explicit requirement of OHSAS 18001 regarding OHS performance is that it must comply with relevant legal requirements.<sup>ii</sup> Therefore, the standard does not refer to just one but to many nationally different OHS concepts, and in the Nordic countries, the more holistic Nordic OHS concept. Because the standard is not explicit in relation to OHS performance, it is left to organization management to choose the level of performance it will obligate itself to live up to, and thereby to select from within the national OHS concept in relation to the framework defined for national regulation. This also means that OHS performance for certified organizations in different countries is opaque and not comparative.

### **3 Comparing the two regimes**

The certification regime has the potential to be more proactive than the regulation and control regime, because certification is basically addressed to organizations that choose to pay for this service. It can therefore be expected that these organizations aim at a level that fulfils or goes even further than the requirements made within the actual OHS concept. Due to the standard's lack of explicit requirements, this requires the individual organization's management to consciously give priority to OHS efforts and provide the necessary economic resources. Because of competition many organizations force managers are to give priority to other activities even though they personally may wish to focus more on OHS. For this reason it is necessary to reduce market incentive to support necessary priorities. Isolated examples also show that systematic emphasis on optimizing the OHS performance have contributed to increased productivity that has more than outweighed the costs.

In international trade, there is a tendency for especially larger organizations to demand that their suppliers in the third world or eastern Europe document their OHS performance, typically through OHSAS 18001 certification. This presents a challenge, however – even a problem – in that the standard lacks explicit requirements for OHS performance besides the normative requirement that management in its OHS policies is obligated to comply with relevant national legislation.

As already mentioned, OHS certification comprises an element in the Danish OHS legislation, and certified organizations are awarded a crowned smiley (special marking, see the Danish Working Environment Authority's website) and are exempt from the OHS authority's introductory screening.<sup>14</sup> This means that OHS certification is an integrated part of the total regulation regime.

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<sup>i</sup> OHSAS 18001:2007, 4.3.3 Objectives and programs

<sup>ii</sup> OHSAS 18001:2007, 4.3.2 Legal and other requirements

The prerequisite for this has been the expectation that the certification process ensures that certified organizations have a good OHS performance and comply with the relevant legal requirements. It was also expected that the process would free authorities' resources for better control of the organizations that have the greatest need for it. Finally, it was expected that this special status would promote the spread of certification and thus improve OHS performance throughout the labor market.<sup>15</sup>

To ensure the possibility for comparison between competing organizations' OHS performance and thereby ensure equal competition, and to make the OHS certificate a relevant instrument for communication with the authorities and other partners, the standard refers to relevant national legislation. Thus, comparability and equal competition only apply for organizations that operate under comparable regulations and inspection practice, which is usually only the case within one country or perhaps a region.

While the regulation and control regime's point of departure is to protect the common good of society, the certification regime is based on business' need that a given service complies with the specifications defined by the supplier. The wish to protect labor power's societal value and prevent accidents, wear and tear etc. is indirectly fulfilled through the standard's requirements of continual improvement and adherence to the relevant legal requirements, as well as some of the requirement elements regarding the system's structure. Therefore, the certification regime's level of OHS performance is inextricably linked with the national OHS concept and the regulations connected with it. In a Danish context, it is therefore important to evaluate the significance that OHS certification has for the quality of the whole regulation regime.

### **3.1 *Authority control versus market relationship and inspection frequency***

Authority control of OHS is forced on the individual organization, while certification is a service that can be purchased on the market. In Denmark, for example, significant competition exists between five certification bodies. This means that a customer relationship exists between the organization and the chosen certification body, which can influence the quality of the auditing and thereby the validity of the certificate. Examples exist of price dumping, which has had consequences for auditing quality, as well as of organizations that shift certification body in order to achieve less restrictive auditing.<sup>16</sup>

In eg the Nordic countries, a similar customer relationship does not exist between authority and the individual organization, because there is a tradition for independence and equality in authority control, and corruption is of no practical significance.

On the other hand, inspection frequency is far greater for certification. In accordance with the accreditation standard,<sup>1</sup> a minimum of one annual audit must be made, whereas the Danish inspection authority, it is the goal for the Danish Working Environment Authority in the period 2005 - 2011 to carry out a screening – and if necessary to follow up by 'adapted' inspections – of all Danish organizations that have employees<sup>17</sup>.

### **3.2 *Significance of the OHS concept***

Although OHS regulation usually expresses a reactive interpretation of the OHS concept that is defined by researchers and OHS professionals, among others, the experiences gathered from authority control and the formulation of regulations and the interaction this involves contribute

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<sup>i</sup> EN ISO/IEC 17021:2006 Conformity assessment – Requirements for bodies preceding audit and certification of management systems (9. General requirements)

actively to the dynamic development and expansion of the OHS concept. One very essential aspect of these processes is that they are basically transparent and public.

No similar processes apply to the same extent in relation to OHS certification, primarily because the certification bodies are subjected to confidentiality with regard to all information about the certified organizations; therefore, such information can only be communicated in very generalized form<sup>i, 18</sup>. At the same time, certification bodies in the Nordic countries have no tradition for participating as interested parties in the networks that create development dynamics through interaction, and they have no independent economic incentive to actively participate in this interaction. The expectation that OSH certification ensures good performance implies a danger that the concept of working environment over time will stagnate indirectly supporting deregulation and lead to less resources provided for authority's control efforts.<sup>19</sup>

### **3.3 *Effect of inspection versus auditing***

Whereas the relationship between regulation and its effect on the working environment are relatively well documented and understood in the Nordic countries, the relationship between OHS certification and the individual organization's OHS performance is very poorly understood, and several challenges and barriers exist for real research in this area.<sup>20</sup>

On the one hand, it is clear that authority control does not ensure that all organizations' OHS conditions comply with the relevant legal requirements. Both the many injunctions and other forms of reaction by the Danish Working Environment Authority, and the many reported work accidents and work-connected ailments document that large segments of the Danish labor market experience problems with the working environment. On the other hand, it is well documented that authority control helps organizations in the right direction and thereby gradually raises the labor market's total OHS performance. The Danish Working Environment Authority also systematically follows the organizations with the greatest problems so that either their performance improves or they become faded out of the labor market.

To begin with, an organization ought first to be able to be certified when the certification body has made sure that no conditions exist that could trigger reactions from the controlling authority; thereafter, the organization, in accordance with the requirement of continual improvement, ought to be able to improve performance so that it complies with the relevant legal requirements.

Documentation is available that shows that some organizations do live up to this understanding of OHS certification's level of performance.<sup>21 22</sup> But, as already mentioned, the Danish inspection data documents that a significant share of the certified organizations do not live up to the expectations or the legal requirements<sup>23 24</sup>, just as no indications are found that continual improvements and thereby progress in the level of performance actually takes place in these organizations.

### **3.4 *Difference in inspection culture***

The measurable and verifiable indicators that, on the basis of OHSAS 18001, can reveal weaknesses in the management system are far from sufficient to expose noncompliance with a holistic OHS concept, which includes long-time exposures, psychosocial working environment etc. and thereby also parameters without any direct dosage-response relationship. They are therefore not measurable and are difficult to verify<sup>25</sup>. Experience shows that certification bodies, through their audits, often find it more difficult to reveal anything about the parameters that are difficult to measure and verify than the control authority, and there are several examples where the Danish Working Environment Authority has issued injunctions due to just such parameters shortly after an audit. The explanation

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<sup>i</sup> EN ISO/ENC: 17021:2006 (Management of impartiality 5.2.7)



is that OHSAS 18001 does not contain requirements that are sufficiently capable in relation to these parameters, and that the certification culture is directed precisely toward verifying compliance with ‘objective’ requirements.<sup>26</sup>

It could seem that the quality and method of the Danish Working Environment Authority’s initial screening and the certifying agency’s audit are comparable. In both cases, random samples are used, and it is not sure that the inspector or auditor has sufficient competence to evaluate the organization’s total OHS complexity. Normally, the certifying agency’s audit takes much longer, primarily because it must audit the paperwork for the whole system, while there is no great difference in the depth and scope of the random samples in relation to the organization’s working environment; however, audits are normally made much more often.

There is a decisive difference in management of the conditions that do not comply with the regulations. If the Danish Working Environment Authority observes conditions that do not comply, the inspector can use a greater range of reactions, from instructions to injunctions to ensure adherence within a given period of time, and to prohibitions against continued operation until conditions comply with the regulations. If serious or multiple conditions are found that do not comply with the regulations, the Working Environment Authority will make a follow-up, ‘adjusted’ inspection, where these conditions are inspected more systematically by one or more inspectors with special competence in relation to the relevant area(s).

If the certification body observes lack of adherence to the regulations, the auditor can make notifications or nonconformities that must be remedied through adjusting/revising the OHS management system within a given period of time, but no instructions or guidance must be provided.<sup>i</sup> The certification body has the possibility to evaluate, through a follow-up audit, whether the necessary system correction has been made and whether it has been implemented and is effective. However, the certification body has no possibility for actual sanctions and thus cannot halt continued operations, even in life-threatening situations. Also, it is not possible for the certifying agency, as a consequence of the accrediting standard’s<sup>ii</sup> confidentiality clause, to report lacking adherence to the regulations – not even in life-threatening situations – to the Working Environment Authority. The only real sanction possible is to suspend the certificate, which rarely happens in practice; here, the customer relationship probably plays a role.

Another decisive difference is how the result of authority control versus certification body auditing is interpreted. On the basis of its random sample audits, the certification body evaluates to what extent the organization’s OHS management system is well functioning and well implemented. Unless such serious violations are found that the certificate is suspended, the auditors conclude on the basis of the certificate alone that the organization on the whole, and regardless of the number of localities, complies with the relevant legal requirements; thus, the organization is basically exempt from authority control. The Working Environment Authority, however, in connection with an inspection will never go further than to conclude that the actual inspection revealed no conditions that justified an injunction or other reaction, and the organization will never be exempt in advance from further inspection.

### **3.5      *Concluding the comparison of the regimes***

Below is a schematic comparison of the regulation and control regime and the certification regime on the basis of their basic characteristics.

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<sup>i</sup> EN ISO/ENC: 17021:2006 (Management of impartiality 5.2.7).

<sup>ii</sup> EN ISO/ENC: 17021:2006 (4.6 Confidentiality)

Parameter	Regulation and control	Certification
OHS concept	Defined in interaction between primarily national interested parties. Experiences from inspections and the formulation of regulations can contribute proactively to developing the OHS concept.	Refers indirectly to the national OHS concept. Can potentially be proactive in relation to interpretation of the OHS concept.
	Usually reactive in relation to the OHS concept, as defined by e.g. researchers and consultants.	Leaves it to organization management to choose which elements it should be evaluated in relation to. Due to confidentiality clauses, the certifying process does not contribute proactively to development of the OHS concept.
Basis for requirements	Political compromise on the basis of hearings of national interested parties.	Only reference to general concepts that are not defined.
	Usually reactive in relation to the existing OHS concept.	No explicit requirement for OHS performance besides complying with relevant national legislation.
Inspection frequency	Planned screenings and if necessary 'adapted' inspections in the period 2005-2001	Audit minimum once a year
	It takes many years before all organizations are inspected.	It takes many years before all addresses and sites are audited
Inspection method	Control of random samples of the concrete working environment, where more thorough inspection focuses on problem areas. Also includes the 'soft' parameters.	Control of random samples of the management system for adherence to the standard's requirements and that it is well implemented..
	When using random samples, serious problems can be missed.	When using random samples, serious problems can be missed.
Interpretation of the result and the forms of reaction	The inspection report describes what has been evaluated; it is never concluded whether the organization as a whole complies with the legal requirements. There can be given injunctions or prohibition against continued operation; for less serious conditions, instructions.	Violations are reported to management with a deadline for correcting the failures in the management system. This also includes eventual lack of compliance with legal requirements.
		No real possibilities for sanctions if conditions are observed that do not comply with legal requirements. No possibilities to give advice or instructions.
Organization's learning from the reactions	Receive guidance from the control authority and can be ordered to use external consultants.	Built-in learning process in the organization.
	The organization does not necessarily learn from injunctions but can focus only on legalization.	Certifying agency does not necessarily follow up regarding whether the organization has learned from the violations.
Inspection competence	Professional OHS competence in relation to the focus of control.	Primarily system competence, even though the audit demands professional OHS expertise.
	Can lack competence in relation to other areas.	Rarely sufficient competence to audit the organization's total complexity.

This comparison illustrates the great differences in both the scope and degree of enforcement of the regulations in the two regimes, which leads to a concluding discussion of the possibilities for these two regimes to supplement each other and eventually also to become coordinated in such a way that they formally support each other.

#### 4 Conclusion and discussion

The certification regime is based on another frame of reference than the regulation and control regime. The two regimes differ in their focus and practice, and this influences their respective strengths and limitations, even though their aim is the same – to improve organizations' OHS performance.

The Danish Working Environment Authority is limited in its work by the resources assigned to it. This affects control frequency, but the authority has a broad range of reaction possibilities and can also advise organizations. In the case of serious violations or life-threatening situations, it can

prohibit continued operations immediately and report the organization to the police. With far more frequent audits, the certification body can only come with comments or nonconformities to be corrected through correction of the system within a specified period of time. In especially serious cases, the certificate can be suspended. This means in practice that certified organizations, if they do not learn from the nonconformities, can continue violating the law for years without suffering any consequences.

The relation to the OHS concept differs. Whereas the certification regime, due to its confidentiality requirement and its closed culture, does not contribute to development of the concept and thereby over time weaken the concept, the regulation and control regime contributes, in spite of its usually reactive interpretation, to the gradual expansion of the concept. Due to both the interpretation of the OHS concept and the system focus and culture, the certification bodies find it extremely difficult to audit the parameters that are difficult to measure and verify. The control authority is better equipped to manage these parameters, because it to a higher degree uses a dialogue-based approach and can choose from a broader range of sanctions. But also for the control authority, management of the 'soft' parameters is a challenge.

Based on Danish experience, OHS certification has not proved to be an especially appropriate instrument to substitute for authority control and to independently ensure compliance with the relevant regulations. However, due to its system focus, OHSAS 18001 is a good instrument for the organizations that really wish to use it to ensure good OHS management and proactive working environment efforts. Thus, certification can be considered a good supplement to generally optimize OHS performance on the labor market. Men effekten for den enkelte organisation afhænger helt af, i hvilken udstrækning topledelsen kommitter sig til at systemet skal bidrage til en løbende ændring og udvikling af ledelseskulturen, og afsætter de nødvendige ressourcer hertil, samt i hvilken udstrækning systemet er forankret i hele organisationen og medarbejderne reelt er inddraget.<sup>27 28</sup>

This raises the question of how OHS certification can best be used as an instrument for improving the total national (and international) OHS performance, and whether and how it should eventually be included as an element in the regulations. On the basis of the Nordic Council of Ministers' project<sup>29</sup> and the Danish Working Environment Authority's inspection data for certified organizations, it cannot be recommended that OHS certification be used as an actual control element, but due to its potential capacity to optimize the individual organization's systematic OHS efforts, its development should be promoted.

The Nordic Council of Ministers' project recommends that some more precise guidelines should be formulated regarding how the OHSAS 18001 standard should be used and interpreted in the Nordic context. It is important to note that among the certification bodies there is support for such guidelines, partly to ensure more equal competition and partly to prevent further increase in the observable lack of public confidence in certification. In addition, some of the certification bodies' auditors endorse to eliminate the exemption of organizations from the Working Environment Authority's initial screening that is in effect in Denmark, because they fear that negative examples that show that certified organizations do not comply with legal requirements will undermine confidence in certification and thus their business reputations.

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<sup>1</sup> Law no. 442 of 7 June 2001: Law on working environment certificate for organizations, and state grants to organizations with certificates.

<sup>2</sup> Labor Ministry's circular no. 923 of 21 October 2001: Circular on working environment certificate obtained through certification of an organization's working environment management system.

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<sup>3</sup> Labor Ministry's circular no. 924 of 21 October 2001: Circular on working environment certificate obtained through inspection, and requirements for the inspection agencies' control of organizations.

<sup>4</sup> Working Environment Authority's circular no. 87 of 31 January 2005: Circular on recognition of DS/OHSAS 18001 etc. as documentation for a good working environment.

<sup>5</sup> Ibid. 2

<sup>6</sup> Ibid. 3

<sup>7</sup> Hendriksen, Kåre et al.: Arbejdsmiljøcertificering som tilsynsredskab og -strategi; [OH&S certification as control instrument and control strategy] Nordic Council of Ministers 2010

<sup>8</sup> Hovden, Jan & Tinsmannsvik, Ranveig Kviseth: Internal Control: A Strategy for Occupational Safety and Health. Experiences from Norway: *Journal of Occupational Accidents*, 12 (1990) 21-30

<sup>9</sup> Huulgaard, Aage; Knudsen, Jes: Arbejdsmiljøloven [Working environment law, vol. 1] bind 1; Fremad 1991

<sup>10</sup> Jørgensen, Ulrik: The 'hidden' networks' of practice in ISO 14001; Greening of Industry Conference, October 2003

<sup>11</sup> Hendriksen, Kåre; Jørgensen, Kirsten; Jørgensen, Ulrik: Certification of OH&S management in a Nordic context; *Safety Science* vol. xx, 2010

<sup>12</sup> EN OHSAS 18001: 2007

<sup>13</sup> Ibid. 10

<sup>14</sup> [http://www.at.dk/ENGELSK/Inspection/Certificate.aspx?sc\\_lang=en](http://www.at.dk/ENGELSK/Inspection/Certificate.aspx?sc_lang=en) and [http://www.at.dk/?sc\\_lang=da](http://www.at.dk/?sc_lang=da)

<sup>15</sup> Employment Minister Claus Hjort Frederiksen's answer to question 556 in Parliament 18 November 2003

<sup>16</sup> Ibid. 11

<sup>17</sup> Resultatkontrakt for Arbejdstilsynet 2009-2012

<sup>18</sup> Ibid. 11

<sup>19</sup> Frick, Kaj; Wren, John: Reviewing Occupational health and Safety Management – Multiple Roots, Diverse perspectives and Ambiguous Outcomes: in *Systematic Occupational Health and Safety Management*; Frick, K. et al.: Pergamon, Oxford 2000

<sup>20</sup> Ibid. 11

<sup>21</sup> Bottani, Elonora et al.: Safety management systems: Performance differences between adopters and non-adopters: *Safety Science* vol. 47, 2009

<sup>22</sup> Rocha, Robson Sø; Hohnen, Pernille: Ledelse af arbejdsmiljø – certificering i praksis [Management of working environment – certification in practice]; Nyt Teknisk Forlag, 2010

<sup>23</sup> Ibid. 11

<sup>24</sup> Baseret på data udskrevet fra Arbejdstilsynets 'DataWarehouse' 12. april 2010

<sup>25</sup> Rimmer, Malcolm: Occupational safety and health management systems in Australia: barriers to success: *Policy and Practice in Health and Safety* vol. 1, no. 2, 2003

<sup>26</sup> Ibid. 11

<sup>27</sup> Ibid 25

<sup>28</sup> Baird, David: The implementation of a health and safety management systems and its interaction with organizational/safety culture: an industrial case study: *Policy and Practice in Health and Safety*, vol. 3 nr. 1, 2005

<sup>29</sup> Ibid. 7